

1 Anthony S. Petru, Esq., Cal. Bar No. 91399  
petru@hmnlaw.com  
2 Paula A. Rasmussen, Esq., Cal. Bar No. 258352  
rasmussen@hmnlaw.com  
3 Charles S. Bracewell, Esq., Cal. Bar No. 284985  
bracewell@hmnlaw.com  
4 HILDEBRAND, McLEOD & NELSON, LLP  
Westlake Building  
5 350 Frank H. Ogawa Plaza, 4<sup>th</sup> Floor  
Oakland, CA 94612  
6 TEL: (510) 451-6732  
FAX: (510) 465-7023  
7

8 Attorneys for Plaintiff  
DAVID GRIFFIN  
9

10 UNITED STATES DISTRICT COURT  
11 EASTERN DISTRICT OF CALIFORNIA  
12 SACRAMENTO DIVISION  
13

14 DAVID GRIFFIN,

15 Plaintiff,

16 vs.

17 UNION PACIFIC RAILROAD COMPANY,  
18 a corporation; and DOES ONE THROUGH  
19 TWENTY, inclusively,

20 Defendants.  
21  
22  
23  
24  
25  
26  
27  
28

) CASE NO.  
)  
)

) **COMPLAINT FOR DAMAGES**  
)

) **Federal Employers' Liability Act**  
) **45 U.S.C. §§ 51, et seq.**  
)

) **DEMAND FOR JURY TRIAL**  
)  
)  
)

HILDEBRAND, McLEOD & NELSON, LLP  
350 FRANK H. OGAWA PLAZA, 4<sup>TH</sup> FLOOR  
OAKLAND, CA 94612-2006  
TELEPHONE: (510) 451-6732  
FACSIMILE: (510) 465-7023

1 Plaintiff DAVID GRIFFIN, through undersigned counsel, complains of Defendants  
2 UNION PACIFIC RAILROAD COMPANY (hereinafter referred to as “UPRR”), a corporation,  
3 and DOES ONE through TWENTY, inclusive, and alleges as follows:

4 1.

5 Jurisdiction is conferred on this Court by 45 U.S.C. § 56 and 28 U.S.C. § 1331.

6 2.

7 Venue is proper in the Eastern District of California pursuant to 28 U.S.C. § 1391(b) as  
8 the events giving rise to this Complaint occurred in the County of Placer, State of California.

9 3.

10 At all times herein mentioned, Plaintiff DAVID GRIFFIN was a resident of the County  
11 of Placer, State of California, and was employed by Defendant UPRR as a maintenance of way  
12 foreman.

13 4.

14 At all times herein mentioned, Defendant UPRR was, and is, a common carrier by  
15 railroad in interstate commerce, conducting business in and around the County of Placer, State  
16 of California.

17 5.

18 The true names or capacities, whether individual, corporate, associate or otherwise, of  
19 Defendants named herein as DOES ONE through TWENTY, inclusive, are unknown to  
20 Plaintiff who therefore sues said Defendants by such fictitious names; Plaintiff will amend his  
21 complaint to show such true names and capacities when the same have been ascertained. Each  
22 of the Defendant DOES was in some manner careless and negligent, or otherwise legally  
23 responsible, concerning the events and circumstances herein referred to and caused injury and  
24 damage thereby as hereinafter set forth.

25 6.

26 At all times herein mentioned, each and every Defendant was the agent, partner, servant,  
27 employer, independent contractor and/or joint venturer of each other Defendant and, at all times  
28

HILDEBRAND, MCLEOD & NELSON, LLP  
350 FRANK H. OGAWA PLAZA, 4<sup>TH</sup> FLOOR  
OAKLAND, CA 94612-2006  
TELEPHONE: (510) 451-6732  
FACSIMILE: (510) 465-7023

herein mentioned, was acting within the course and scope of said agency, partnership, employment, contract or joint venture.

7.

On or about September 26, 2020, Defendant UPRR assigned Plaintiff to inspect its railroad tracks near Mile Post 170 at Emigrant Gap, California due to a track indication. While driving on the access road along Defendant UPRR's tracks, Plaintiff's truck slid off the road and rolled down a steep embankment, causing him injury.

8.

Defendant UPRR owed Plaintiff the duty of exercising ordinary care to provide Plaintiff with reasonably safe tools and equipment with which to work, a reasonably safe place to work, and to institute and oversee reasonably safe procedures and methods for the performance of said work.

9.

Defendant UPRR, through its employees, agents, and servants other than Plaintiff, carelessly and negligently failed in its aforesaid duties by, among other things:

- a. failing to maintain the access road in a reasonably safe condition,
- b. failing to block the access road following prior incidents,
- c. failing to warn Plaintiff of the hazardous condition of the access road,
- d. failing to maintain the signal bond wire,
- e. failing to provide Plaintiff with a reasonably safe mode of transportation,
- f. other acts and omissions of negligence, and violations of railroad safety statutes and regulations, which will be fully enumerated at the trial in this matter.

10.

As a result of the negligence of Defendant UPRR, Plaintiff suffered physical and emotional injuries, including injury to his back. As a further result of the negligence of Defendant UPRR, Plaintiff suffered and will continue to suffer impaired earning capacity, pain

1 and worry. Plaintiff has also lost, and will continue to lose, wages and benefits and has incurred  
2 and will continue to incur medical expenses.

3  
4 WHEREFORE, Plaintiff prays for the following relief:

5 For judgment against Defendant for economic and non-economic damages in an amount  
6 to be determined at trial and for their costs and disbursements incurred herein.

7  
8 DATED: April 7, 2022

HILDEBRAND, McLEOD & NELSON, LLP.

9  
10 

11 By: \_\_\_\_\_

CHARLES BRACEWELL

Attorneys for Plaintiff

DAVID GRIFFIN

12  
13  
14  
15 **DEMAND FOR TRIAL BY JURY**

16 Plaintiff DAVID GRIFFIN, by and through undersigned counsel, hereby demands a trial  
17 by jury on all factual issues triable.

18  
19 DATED: April 7, 2022

HILDEBRAND, McLEOD & NELSON, LLP.

20  
21 

22 By: \_\_\_\_\_

CHARLES BRACEWELL

Attorneys for Plaintiff

DAVID GRIFFIN

HILDEBRAND, McLEOD & NELSON, LLP  
350 FRANK H. OGAWA PLAZA, 4<sup>TH</sup> FLOOR  
OAKLAND, CA 94612-2006  
TELEPHONE: (510) 451-6732  
FACSIMILE: (510) 465-7023